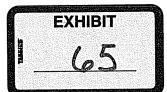
PR#9833

STRONG, J.D.

4/9/2009

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IN THE UNITED STATES DISTRICT COURT
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             FOR THE NORTHERN DISTRICT OF OKLAHOMA
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     STATE OF OKLAHOMA, et al.,
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     Plaintiff,
5
                              CASE NO. 05-CV-00329-GKF SAJ
     vs.
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     TYSON FOODS, INC., et al.,
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     Defendants.
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               VIDEOTAPED DEPOSITION OF J.D. STRONG
                TAKEN ON BEHALF OF THE DEFENDANTS
9
             ON APRIL 9, 2009, BEGINNING AT 8:40 A.M.
                    IN OKLAHOMA CITY, OKLAHOMA
10
                           APPEARANCES:
11
     On behalf of the PLAINTIFF:
12
     Mr. J. Trevor Hammons
     Mr. Dan Lennington
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     Oklahoma City, Oklahoma 73105
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     On behalf of the DEFENDANT-TYSON FOODS, TYSON CHICKEN,
     TYSON POULTRY AND COBB-VANTRESS, INC.:
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     On behalf of the DEFENDANT-PETERSON FARMS, INC.:
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     Ms. Nicole Longwell
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     REPORTED BY: Laura L. Robertson, CSR, RPR
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STRONG, J.D.

4/9/2009

1 to-wit: DIRECT EXAMINATION 2 3 BY MR. GEORGE: Mr. Strong, could you state your full name 4 Q. for the record, please. 5 Full name is James David Strong. 6 Α. Could I have a personal address, where you 7 Q. 8 live? 9 Where I live? Α. 10 Yes. Q. 9349 Southwest 21st Street, Oklahoma City, 11 Α. 12 Oklahoma 73128. And Mr. Strong, do I understand you are a 13 Q. 14 state employee? 15 Yes. Α. What is your position? 16 Q. Secretary of Environment. 17 Α. And how long have you held that position? 18 Q. 19 Since September 2008. Α. Is that a governor appointed position? 20 Q. 21 Yes. Α. Require approval of the legislature? 22 Q. Approval of the senate. 23 Α. 24 Where is your hometown? Q. 25 Weatherford, Oklahoma. Α.

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pollution, but the phosphorus that comes out of a bag from Home Depot that runs off into the stream is not pollution. Is that what you're telling me?

MR. LENNINGTON: Object to the form.

THE WITNESS: As far as the state law is concerned, that's true.

- Q. (BY MR. TUCKER) Okay. Now, you have told me that a farmer can get a nutrient management plan and he can comply with that nutrient management plan and still be violating the law because there can be site specific runoff from his application of poultry litter; is that right? Is that what you told us? Did I get that right?
 - A. Yes, I believe so, yes.
- Q. Now, what part of the nutrient management plan tells the farmer, makes that disclosure to the farmer, does any part of the plan tell him that?
- A. I'm not familiar with every verse and word of the nutrient management plan, so I'm not sure if that is included in the nutrient management plan or not.
 - Q. Have you ever even looked at one?
 - A. I have glanced.
 - Q. Have you ever read one?
- A. Not thoroughly.

STRONG, J.D.

4/9/2009

220 1 right? I don't know whether or not the farmers know 2 Α. it. 3 Can do it, can comply? 4 Q. 5 It is possible to violate the laws of the Α. state while complying with a nutrient management plan. 6 7 And that's because some phosphorus can run Q. off? 8 9 Α. Correct. 10 How much? Q. I think --11 Α. 12 How much phosphorus? Q. It is a very site specific number. 13 Α. An 80 acre tract of land that has litter 14 Q. 15 applied to it, nutrient management plan says you can put on three acres a year -- three tons per acre per 16 How much phosphorus runs off that land? 17 Object to the form. 18 MR. LENNINGTON: 19 THE WITNESS: I don't know. That's just a 20 general --How much phosphorus would have 21 MR. TUCKER: to run off that land to cross your threshold that 22 would make it pollution? 23 24

The law says zero runoff. Α.

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Does phosphorus run off just plain dirt, Q.

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yes.

STRONG, J.D.

4/9/2009

245

- A. They both get their root in a law, yes.
- Q. Regardless of whether one is federal and one state?
 - A. One is state.
 - Q. But they are both created, the requirement is created by a law; correct?
 - A. Correct.
 - Q. Okay. And they both allow discharge into the environment within the state of Oklahoma of phosphorus; correct?

MR. LENNINGTON: Object to the form.

THE WITNESS: The point source permit does,

- Q. (BY MS. LONGWELL) Okay. And when an animal waste management plan says you can land apply a certain amount of poultry litter to the land, to a specific land, is that not a permission to apply a certain amount of phosphorus into the environment within the state of Oklahoma?
- A. I think that requires some sort of legal interpretation, but I don't necessarily believe that it does.
- Q. Do you agree with me that poultry litter contains phosphorus?
 - A. Yes.